



AMENDMENT TRANSMITTAL LETTER

IFW
Attorney Docket
No:
N29748500SApplication Serial Number:
09/964,995Filing Date:
09/27/2001Examiner:
Tran, T.Group Art Unit:
2811

Invention: Semiconductor Device and Manufacturing Method Therefor

TO THE COMMISSIONER OF PATENTS AND TRADEMARKS:

Transmitted herewith is an amendment in the above-identified application. The fee has been calculated as shown below.

CLAIMS AS AMENDED

	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NUMBER PREVIOUSLY PAID FOR	NO. OF EXTRA CLAIMS PRESENT	RATE	ADDITIONAL FEE
TOTAL CLAIMS	12	MINUS	25	0	\$18	\$ 0.00
INDEP. CLAIMS	3	MINUS	4	0	\$88	\$ 0.00

X Petition is hereby made under 37 CFR 1.136(a) to extend the time for response to the Office Action of 09/01/2004 to and through 12/01/2004, comprising an extension of the shortened statutory period of:

X one month (\$110) three months (\$980)
 two months (\$430) four months (\$1530)

TOTAL ADDITIONAL FEE FOR THIS AMENDMENT

- Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.
- A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.
- X A check in the amount of \$ 110.00 is attached.
- Charge \$ to Deposit Account .
- No additional fee is required. It is believed that the indicated items are timely filed. However, in the event an extension of time is required, please consider this a petition for extension of time under 37 C.F.R. §1.136(a). Please charge any fees that may be required to Deposit Account No. 50-2087.

November 23, 2004
date

Darryl Walker
Darryl Walker
Reg. No. 43,232

I hereby certify that this correspondence and all correspondence identified as accompanying this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on November 23, 2004.

Darryl Walker
Darryl G. Walker



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Ogawa, Kazuo

Serial No.: 09/964,995

Filed: September 27, 2001

Title: SEMICONDUCTOR DEVICE AND
MANUFACTURING METHOD
THEREFOR

Attorney Docket No.: N29748500S

Group Art Unit: 2811

Examiner: Tran, T.

REQUEST FOR RECONSIDERATION OF
FINALITY OF OFFICE ACTION

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The following is submitted in response to the Final Office Action dated September 1, 2004.

Applicant respectfully requests that the status of the above-referenced Final Office Action be changed to Non-Final.

37 C.F.R. §1.8

I hereby certify that this correspondence is being

[] transmitted via facsimile to the United States Patent and Trademark Office to fax number: _____
Date of Transmittal: _____

[X] deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

Date of Deposit: November 23, 2004

Typed/Printed Name: Darryl Walker

Signature: Darryl Walker

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REMARKS

Final Office Action Premature.

Claims 1, 3, 5-7 and 9-25 are pending in the application. The Final Office Action indicates that Applicant's amendment necessitated new grounds for rejection resulting in a Final Office Action.¹

A final rejection is proper on a second action, except where the examiner introduces a new ground of rejection not necessitated by amendment of the application by the applicant.²

In the present case, Applicant's only amendment to claim 22 was to incorporate limitations present in the preamble of the claim. Thus, the claim limitations rejected in the current Final Office Action are essentially the same as those presented in the first Office Action.

In the first Office Action, claim 22 was not rejected based on any prior art references, but rather 35 U.S.C. §112. In the present Final Office Action, essentially the same claim (claim 22 amended to include the limitations of its preamble) has been rejected with two entirely new prior art rejections: 35 U.S.C. §102(e)/§103(a) based on *Ishitsuka et al.*, and §103(a) based on *Bhakta et al.* Thus, the present Final Office Action presents a new ground of rejection – and is therefore improper as a final ground for rejection. It is not believed that Applicant's amendment could have necessitated the new grounds of rejection, as no substantial change to claim 22 was introduced.


¹ See the Final Office Action dated 1/17/02, Page 3, item 5.

² MPEP § 706.07(a).

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For these reasons, it is respectfully requested that the finality of the last Office Action be reconsidered, and Applicant's be presented with the opportunity to address the new grounds of rejection.

Respectfully Submitted,

 11/23/04

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